

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

No. CR 11-2148 JB

LUCIANO MORENO-QUIDERA,

Defendant.

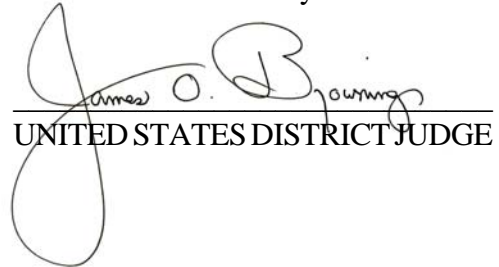
MEMORANDUM OPINION AND ORDER

THIS MATTER comes before the Court on the Defendant's Sentencing Memorandum, filed February 5, 2012 (Doc. 42) ("Sentencing Memorandum"). The Court held a sentencing hearing on February 17, 2012. The primary issue is whether the Court should impose a sentence of time served. Because Defendant Luciano Moreno-Quidera withdrew his request for a sentence of time served at the sentencing hearing and now requests a sentence of 12 months and 1 day at the bottom of the advisory guideline range, see Transcript of Hearing at 6:25-7:18 (taken February 17, 2012)(Lopez)("Tr."),¹ the Court will deny the request for a downward variance as moot. Plaintiff United States of America does not oppose a sentence within the advisory guideline range. See United States' Response to Defendant's Sentencing Memorandum at 4, filed February 7, 2012 (Doc. 43). The Court will sentence Moreno-Quidera to a sentence of 12 months and 1 day for the following reasons: (i) the reasons stated on the record; (ii) the parties agree that a sentence of 12 months and 1 day is appropriate; (ii) Moreno-Quidera has significant criminal history, including immigration and violent crimes; and (iv) a sentence at the bottom of the advisory guideline range

¹The Court's citations to the transcript of the hearing refer to the court reporter's original, unedited version. Any final transcript may contain slightly different page and/or line numbers.

best reflects the factors contained in 18 U.S.C. § 3553(a).

IT IS ORDERED that the request for a downward variance contained in the Defendant's Sentencing Memorandum, filed February 5, 2012 (Doc. 42), is denied as moot. The Court will sentence Defendant Luciano Moreno-Quidera to a sentence of 12 months and 1 day.



UNITED STATES DISTRICT JUDGE

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